

REMARKS

This is a full and timely response to the outstanding non-final Office Action mailed June 14, 2007 (Paper No. 20070605). Upon entry of this response, claims 1-3, 5-6, 10-11, 13, 17-22, 24, and 27-46 are pending in the application. In this response, claims 10-11 and 13 have been amended, claims 36-46 have been added, and claims 4, 7-9, 12, 14-16, 23, and 25-26 have been cancelled. Applicants respectfully request that the amendments being filed herewith be entered and request that there be reconsideration of all pending claims.

I. Allowable Subject Matter

Applicants acknowledge the Examiner's indication in the Office Action that claims 6, 7, 17-28, 34 and 35 would be allowable if rewritten to include all of the limitations of the base claim and any intervening claims. However, Applicants have not amended these dependent claims, since Applicants believe that the independent claims are patentable over the art of record, as argued below.

II. Rejection of Claims 1-5, 8-9, 14-16, and 29-33 under 35 U.S.C. §103

Claims 1-5, 8-9, 14-16, and 29-33 have been rejected under §103(a) as allegedly obvious over *Graf et al.* (6,671,367), apparently in view of the knowledge of a person of ordinary skill in the art. Applicants respectfully traverse this rejection. It is well established at law that, for a proper rejection of a claim under 35 U.S.C. §103 as being obvious based upon a combination of references, the cited combination of references must disclose, teach, or suggest, either implicitly, all elements/features/steps of the claim at issue. See, e.g., *In re Dow Chemical*, 5 U.S.P.Q.2d 1529, 1531 (Fed. Cir. 1988); *In re Keller*, 208 U.S.P.Q.2d 871, 881 (C.C.P.A. 1981).

A. Claims 1 and 29

1. *Graf et al.* does not teach "detecting whether at least one first network layer protocol packet has been received, the at least one first network layer protocol packet comprising first information with the particular characteristic, the first

information being capable of causing at least one filtering/forwarding entity not to pass the at least one first network layer protocol packe”

The Office Action (p. 2) alleges that *Graf et al.* discloses this “detecting” feature in Col. 2, lines 44-53 and Col. 5, lines 10-14. Applicants have carefully reviewed those portions of *Graf et al.* and can find no teaching of the “detecting” feature recited in claims 1 and 29.

Graf et al. at col. 5, lines 10-14 states that “speech codec-negotiation between the original terminating signalling point and the final terminating signalling point does not result in the first speech codec. If the result is the first speech codec, then there may be no need to modify the original connection.” There is no mention of “detecting” in this passage at all, nor can Applicants find anything in this passage which corresponds to “first information with the particular characteristic”, or to “causing at least one filtering/forwarding entity not to pass” as recited in claims 1 and 29.

Graf et al. at Col. 2, lines 44-53 describes a signalling point sending a “capability preference” to another signaling point, conditions under which the receiver signaling point does not return an acceptance message, and behavior of both points if the acceptance is not returned. There is no mention of “detecting” in this passage at all, nor can Applicants find anything in this passage which corresponds to “first information with the particular characteristic” or to “causing at least one filtering/forwarding entity not to pass” as recited in claims 1 and 29.

Applicants note that the word “characteristic” appears twice in *Graf et al.* in the context of “security and codec (coding and decoding) characteristics”. However, the feature recited in claims 1 and 29 is not simply “characteristic”, but “first information with the particular characteristic” where that first information is included in a packet. If the rejection is maintained in the next Office Action, Applicants respectfully request that the Examiner explain which features of *Graf et al.* are alleged to correspond to “detecting”, “first information with the particular characteristic”, and “causing at least one filtering/forwarding entity not to pass”.

2. *Graf et al.* does not teach “determining the capability of the at least one communication facility to pass the network layer protocol packets with the particular characteristic”

The Office Action (p. 2) alleges that *Graf et al.* discloses this “determining” feature in Col. 5, lines 10-14 and Col. 6, lines 63-65. Applicants have carefully reviewed those portions of *Graf et al.* and can find no teaching of the “determining” feature recited in claims 1 and 29.

Graf et al. at Col. 6, lines 63-65 describes “conducting a negotiation between two mobile terminals subscribing to the first and second mobile networks respectively to determine a suitable speech codec, wherein the negotiation is conducted using Call Control protocol signalling messages.” Applicants can find nothing in this passage which corresponds to “determining” a “capability”, or to a “capability” to “pass the network layer protocol packets with the particular characteristic” as recited in claims 1 and 29.

Applicants note that the word “characteristic” appears twice in *Graf et al.* in the context of “security and codec (coding and decoding) characteristics” However, the feature recited in claims 1 and 29 is not simply “characteristic”, but “first information with the particular characteristic” where that first information is included in a packet. If the rejection is maintained in the next Office Action, Applicants respectfully request that the Examiner explain which features of *Graf et al.* are alleged to correspond to “determining the capability of the at least one communication facility to pass the network layer protocol packets”, and to “pass the network layer protocol packets with the particular characteristic”.

3. The deficiencies of *Graf et al.* are not cured by “expand[ing] the use of Internet Protocol networks...to passing network layer protocol packets ”

The Office Action states that

Graf et al. further teaches the Bearer Control Level comprises a bearer network such as IP network (Col. 8, lines 16-23); and the use of Internet Protocol networks to transport signalling information (col. 1, lines 28-43). However, *Graf et al.* does not specifically teach passing network layer protocol packets. It would have been obvious...to expand the use of Internet Protocol networks to transport signaling information in *Graf et al.* to also

transporting or passing network layer protocol packets within communications facility.
(Office Action, p. 3).

Applicants admit that *Graf et al.* teaches the use of Internet Protocol networks to transport signalling information, and will even assume, for the sake of argument, that *Graf et al.* also teaches that this signalling information is carried in network layer protocol packets. However, this does not remedy the deficiencies of *Graf et al.* discussed above.

If *Graf et al.* taught the “detecting” and “determining” features recited in claims 1 and 29 as applied to packets in general, but not as applied to network layer protocol packets in particular, then the “expansion” of *Graf et al.* discussed in the Office Action would be sufficient for a rejection. However, as argued above, *Graf et al.* does not teach many of the features recited in claims 1 and 29. Therefore, the combination does not teach all of the features recited in claims 1 and 29.

4. Conclusion

Since the proposed combination does not teach at least the above-described features recited in claims 1 and 29, a *prima facie* case establishing an obviousness rejection has not been made. Thus, claims 1 and 29 are not obvious over *Graf et al.*, and the rejection should be withdrawn.

B. Claims 2-5, 8-9, 14-16, and 30-33

Since claims 1-5, 8-9, 14-16, and 29-33 are allowable, Applicants respectfully submit that claims 2-5, 8-9, 14-16, and 30-33 are allowable for at least the reason that each depends from an allowable claim. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q. 2d 1596, 1598 (Fed. Cir. 1988). Therefore, Applicants respectfully request that the rejection of claims 2-5, 8-9, 14-16, and 30-33 be withdrawn.

III. Rejection of Claims 10-13 under 35 U.S.C. §103

Claims 10-13 have been rejected under §103(a) as allegedly obvious over *Graf et al.* (6,671,367) in view of *Moss et al.* (6,785,372). However, the addition of *Moss et al.* does not cure the deficiencies of *Graf et al.* discussed above in connection with independent claim 1. Therefore, claims 10-13 are considered patentable under this combination. Furthermore, since independent claim 10 is allowable for at least the reasons argued above, Applicants respectfully submit that claims 10-13 are allowable for at least the reason that each depends from an allowable claim. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q. 2d 1596, 1598 (Fed. Cir. 1988). Therefore, Applicants respectfully request that the rejection of claims 10-13 be withdrawn.

IV. Newly Added Claims

Applicants submit that new claims 36-46 are allowable over the cited references. Specifically, independent claim 36 is allowable for at least the reason that the cited references do not teach, disclose, or suggest the feature of “determining that the communication facility has a capability of passing network layer packets with the particular characteristic, upon detecting that the network layer packet having information with the particular characteristic has been received”. Claims 37-46 are allowable over the cited references for at least the reason that each depends from an allowable claim. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q. 2d 1596, 1598 (Fed. Cir. 1988). Therefore, Applicants request the Examiner to enter and allow the above new claims.

CONCLUSION

Applicants respectfully request that all outstanding objections and rejections be withdrawn and that this application and presently pending claims 1-3, 5-6, 10-11, 13, 17-22, 24, and 27-46 be allowed to issue. Any statements in the Office Action that are not explicitly addressed herein are not intended to be admitted. In addition, any and all findings of inherency are traversed as not having been shown to be necessarily present. Furthermore, any and all findings of well-known art and official notice, or statements interpreted similarly, should not be considered well known since the Office Action does not include specific factual findings predicated on sound technical and scientific reasoning to support such conclusions. If the Examiner has any questions or comments regarding Applicants' response, the Examiner is encouraged to telephone Applicants' undersigned counsel.

Respectfully submitted,

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